

5/027/098



United States Department of the Interior

BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631



RECEIVED

APR 02 2002

DIVISION OF
OIL, GAS AND MINING

In Reply Refer to:
3800
(U-010)
UTU-079464

March 28, 2002

CERTIFIED MAIL# 7000 1530 0006 2417 0730
RETURN RECEIPT REQUESTED

LARRY L DUTSON
140 N 150 E
DELTA UT 84624

Dear Mr. Dutson:

Your completed notice to conduct mining related operations on unappropriated public lands, located in the S $\frac{1}{2}$ Sec. 30, T. 18 S., R. 13 W., SLBM, was received on March 21, 2002, and has been accepted by this office. Your notice has been assigned case file number UTU-079464. Please use this number in any future correspondence concerning this notice.

On March 26, 2002, a surface compliance inspection was conducted at the site of the operation. At this inspection, it was determined that at least 100 tons of material had been removed from the eastern quarry. The notice submitted on October 12, 2001 stated that approximately 48 tons would be extracted for testing purposes.

You have exceeded the scope of the Notice, and as such you must immediately cease operations until we accept an amended Notice and the amount of the financial guarantee has been recalculated and you have submitted any additional bond money to the Utah State Office of the BLM. Please be reminded that you can remove only 1000 tons of material under a Notice. Before you remove more than 1000 tons, you must have an approved Plan of Operations (Plan).

Please include with your amended notice or Plan, your taxpayer ID number. This information should be on a separate paper from the notice so that we can keep it in a separate, secure location. Also, be sure to use the correct legal description for your operation, which is located in the S $\frac{1}{2}$ of Section 30, T. 18 S., R. 13 W.

In addition, new regulations (43 CFR 3809.101(a) and (b)) that became effective on January 20, 2001 state:

"a) *Mineral examination report.* On mining claims located on or after July 23, 1955, you must not initiate operations for minerals that may be "common variety" minerals, as defined in §3711.1(b) of this title, until BLM has prepared a mineral examination report, except as provided in paragraph (b) of this section.

(b) *Interim authorization.* Until the mineral examination report described in paragraph (a) of this section is prepared, BLM will allow notice-level operations or approve a plan of operations for the disputed mining claim for:

(1) Operations limited to taking samples to confirm or corroborate mineral exposures that are physically disclosed and existing on the mining claim;

(2) Performance of the minimum necessary annual assessment work under §3851.1 of this title; or

(3) Operations to remove possible common variety minerals if you establish an escrow account in a form acceptable to BLM. You must make regular payments to the escrow account for the appraised value of possible common variety minerals removed under a payment schedule approved by BLM. The funds in the escrow account must not be disbursed to the operator or to the U.S. Treasury until a final determination of whether the mineral is a common variety and therefore salable under part 3600 of this title."

Since we cannot determine whether a material is an uncommon variety without first preparing a mineral report, we must apply this section to all Notices or Plans proposing mining of any deposit of sand, stone (except chemical grade limestone), gravel, pumicite and cinders claimed after 1955. If you do not wish to wait until a mineral report can be prepared, you must set up an escrow account for any additional material you wish to remove from the site. We anticipate the appraised value of the material will be between \$12 and \$20 per ton.

If you are convinced that your deposit is locatable, please be aware the Court has set standards to distinguish between common varieties and uncommon varieties of mineral deposits or stone.

The standards are:

1. There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. The mineral deposit in question must have a unique property;

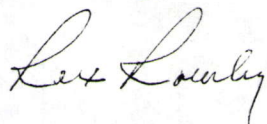
3. The unique property must give the deposit a distinct and special value;
4. If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and
5. The distinct and special value must be reflected in the market place (or in reduced cost or overhead so that the profit to the claimant would be substantially more).

Your input will be sought while the mineral examination is prepared. If you have information that you believe to be beneficial to your case, and if you wish to have that information considered in the report, please be prepared to submit it to the mineral examiner upon request. Any information you submit may be held as Confidential-Proprietary Data if you so request.

If the mineral examination report under paragraph concludes that the minerals are common variety you may either relinquish your mining claim or the BLM will initiate contest proceedings. Upon relinquishment or final departmental determination that the mining claim(s) is null and void, you must promptly close and reclaim your operations unless you have been authorized to proceed under the 43 CFR 3600 regulations.

If you have any questions, please feel free to contact Jerry Mansfield at (435) 743-3125.

Sincerely,



Rex Rowley
Field Office Manager

cc: Tom Munson, UDOGM (E/027/066)
Mert Hamilton, PO Box 35, Delta, UT 84624